

SDMS US EPA REGION V -1

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AGREEMENT

THIS AGREEMENT made, executed and entered into on the dates hereinafter set opposite each party's signature by and among VILLAGE OF SAUGET, an Illinois municipal corporation, hereinafter referred to as VILLAGE; MONSANTO COMPANY, a Delaware corporation authorized to transact business in Illinois, EDWIN COOPER, INC., a Delaware corporation authorized to transact business in Illinois, AMAX ZINC COMPANY, INC., a Delaware corporation authorized to transact business in Illinois, and CERRO CORPORATION, a New York corporation authorized to transact business in Illinois, hereinafter jointly and severally referred to as CORPORATIONS; and VILLAGE OF SAUGET SANITARY DEVELOPMENT AND RESEARCH ASSOCIATION, an Illinois not-for-profit corporation, hereinafter referred to as ASSOCIATION.

KNOW ALL MEN BY THESE PRESENTS:

W I T N E S S E T H:

WHEREAS, VILLAGE owns an existing system of sewers for the collection and transmission of sewage and industrial wastes; and

WHEREAS, VILLAGE owns, and ASSOCIATION operates for VILLAGE, a plant for the primary treatment of such sewage and industrial wastes; and

WHEREAS, by reason of certain rules and regulations adopted by the Illinois Environmental Protection Agency and other Federal and Illinois statutes and administrative rulings and to preserve the public health and welfare, it is necessary that VILLAGE make certain extensions, improvements and additions to its existing sewer system and sewage treatment plant; and

WHEREAS, upon the recommendation of ASSOCIATION, VILLAGE has heretofore retained MONSANTO ENVIRO-CHEM SYSTEMS, INC., an Independent Engineer, to plan and design such extensions, improvements and additions; and

WHEREAS, ASSOCIATION has approved such design and plans and the hereinafter stated cost estimate; and

WHEREAS, the costs of such extensions, improvements and additions, including the expenses of planning and designing the same and issuing and selling the bonds hereinafter described and of establishing the Capitalized Bond Interest Reserve Account, are estimated to be \$8,670,000; and

WHEREAS, in order to finance such costs, it is necessary for VILLAGE to issue and sell \$8,670,000 of bonds; and

WHEREAS, such extensions, improvements and additions will be used by each of the CORPORATIONS in the collection, transmission and disposal of their respective effluent, sewage and other industrial wastes and, therefore, each of the CORPORATIONS is willing to agree to make certain payments to VILLAGE to enable it to retire certain of said bonds and to pay the interest thereon and each of the CORPORATIONS is willing to assume other obligations, as hereinafter specified.

NOW THEREFORE; for and in consideration of the mutual promises, covenants and agreements hereinafter contained; the VILLAGE, each of the CORPORATIONS and the ASSOCIATION do hereby mutually promise, covenant and agree as follows:

Section 1. Definitions. Each of the following terms shall have the following definition:

a. "Agreement": this Agreement as, from time to time, supplemented and amended.

b. "Annual Debt Service": The amount due the holders of the Revenue Bonds for principal or interest or both accruing during a particular Fiscal Year.

c. "ASSOCIATION": the VILLAGE OF SAUGET SANITARY DEVELOPMENT AND RESEARCH ASSOCIATION, an Illinois not-for-profit corporation, and its successors and assigns.

d. "Bond Ordinance": the Ordinance of VILLAGE pursuant to which the Revenue Bonds are to be issued.

e. "Bond Payment": the amount of Annual Debt Service for a particular Fiscal Year, reduced by the amount in the Bond Payment Account as of the end of the prior Fiscal Year after making provision for the Annual Debt Service for such prior Fiscal Year and further reduced by the amount, if any, which will be transferred for that Fiscal Year from the Capitalized Bond Interest Reserve Account or Sinking Fund Account to the Bond Payment Account.

f. "Bond Payment Account": a special account of the VILLAGE which shall be established and maintained in the name of the VILLAGE with the Trustee pursuant to the Bond Ordinance; which shall be used solely to pay Annual Debt Service; and into which VILLAGE shall deposit: that portion of charges collected from Users attributable to Bond Payment; such other funds, income and earnings as may be deposited therein pursuant to this Agreement, the Rate Ordinance, the Bond Ordinance or otherwise; funds transferred from the Capitalized Bond Interest Reserve Account; and funds transferred, if any, from the Bond Reserve Account or the Sinking Fund Account.

g. "Bond Reserve Account": a special account of the VILLAGE which shall be established and maintained in the name of

the VILLAGE with the Trustee pursuant to the Bond Ordinance; which shall be used solely and only as a reserve for the payment of principal of and interest on the Revenue Bonds; and out of which funds will be transferred to the Bond Payment Account should the Bond Payment Account ever have an insufficient balance on any date to make the payment of principal of or interest on Revenue Bonds then due. Whensoever the balance then on hand in the Bond Reserve Account (together with balances then on hand in the Bond Payment Account, Sinking Fund Account and Principal Reserve Account) shall be sufficient to pay the principal of all then outstanding Revenue Bonds and the interest thereon to accrue to maturity or redemption, such balance shall be transferred to the Bond Payment Account. As of the last day of the nineteenth (19th) Fiscal Year, the balance then on hand in the Bond Reserve Account, if any, shall be transferred to the Bond Payment Account.

h. "Bond Reserve Payment": The amount required to be paid into the Bond Reserve Account for a particular Fiscal Year. In each month during the first and each subsequent Fiscal Year, the VILLAGE shall collect from Users and deposit into the Bond Reserve Account the lesser of the two (2) following amounts: (1) \$40,000.00 per month or (2) one-twelfth (1/12) of the amount necessary to increase the balance in such Account to \$670,000.00 without considering any expenditures made or to be made from and out of such Account during the then current Fiscal Year; provided, however, that, if at the end of any Fiscal Year, the balance in such Account is \$670,000.00, no sum shall be collected from any User for such Account during the succeeding Fiscal Year.

i. "Capitalized Bond Interest Reserve Account": a special account of the VILLAGE which shall be established and

maintained in the name of the VILLAGE with the Trustee pursuant to the Bond Ordinance; into which there shall be deposited the sum of \$670,000.00 at and upon the VILLAGE's receipt of the proceeds of sale of the Revenue Bonds; which, by transfers to the Bond Payment Account, shall be used to pay the interest which will accrue on the Revenue Bonds during the first Fiscal Year; and which, by transfers to the Bond Payment Account to the extent any balance then remains, shall be used to pay the interest which will accrue on the Revenue Bonds during the second Fiscal Year.

j. "Construction Fund": a special account of the VILLAGE which shall be established and maintained with the Trustee; into which shall be deposited the proceeds of sale of the General Obligation Bonds and the Revenue Bonds less any and all expenses of sale, any reimbursement due the VILLAGE and the \$670,000.00 to be deposited in the Capitalized Bond Interest Reserve Account; and which shall be used to pay the Project Costs as specified in Section 22.

k. "CORPORATIONS": The following corporations which are parties to this agreement: MONSANTO COMPANY, a Delaware Corporation, EDWIN COOPER, INC., a Delaware Corporation, AMAX ZINC COMPANY, INC., a Delaware Corporation, and CERRO CORPORATION, a New York Corporation, and each of their respective successors and assigns.

l. "Depreciation Account": a special account of the VILLAGE which shall be established and maintained pursuant to the Bond Ordinance and which shall be used for the purpose of making major repairs or replacements to the System (except the existing sewer collection and transmission lines).

m. "Depreciation Payment": The amount required to be paid into the Depreciation Account for a particular Fiscal Year.

In each month during the first and each subsequent Fiscal Year, the VILLAGE shall collect from Users and deposit in the Depreciation Account the lesser of the two (2) following amounts: (1) \$5,833.00 per month or (2) one-twelfth (1/12th) of the amount necessary to increase the balance in such Account to \$420,000.00 without considering any expenditures made or to be made out of such Account during the then current Fiscal Year; provided, however, that, if at the end of any Fiscal Year, the balance in such Account is \$420,000.00, no sum shall be collected from any User for such Account during the succeeding Fiscal Year.

n. "Extensions": the extensions and improvements to be made to the System by the VILLAGE which are described in Exhibit A to this Agreement, which exhibit is attached hereto and, by this reference, incorporated herein and made a part hereof.

o. "Fiscal Year": the twelve (12) month period commencing on the date of the Revenue Bonds and each twelve (12) month period thereafter so long as this Agreement is in effect.

p. "General Obligation Bonds": the \$800,000.00 of General Obligation Bonds to be issued and sold by the VILLAGE.

q. "Independent Engineer": the engineer (or engineering firm) retained from time to time by VILLAGE, upon the recommendation of ASSOCIATION, to implement the provisions of this Agreement.

r. "Principal Reserve Account": a special account of the VILLAGE which shall be established and maintained in the name of the VILLAGE with the Trustee pursuant to the Bond Ordinance; into which certain excess funds, if any, remaining in the Construction

Fund will be deposited; which will be used to purchase and then retire Revenue Bonds on the open market if and when the same become available for purchase at a price of 105 or less; and which shall be used to redeem and then retire Revenue Bonds on the earliest possible redemption date.

s. "Rate Ordinance": an ordinance to be adopted by VILLAGE, a copy of which is attached hereto, marked Exhibit B and, by this reference, incorporated herein and made a part hereof.

t. "Report": the report dated August 24, 1972 prepared by MONSANTO ENVIRO-CHEM SYSTEMS, INC., as amended by the Board of Directors of ASSOCIATION at its meeting held on November 21, 1973.

u. "Revenue Bonds": the \$7,870,000.00 of revenue bonds to be issued and sold by VILLAGE pursuant to the Bond Ordinance.

v. "Sinking Fund Account": a special account of the VILLAGE which may be established and maintained in the name of the VILLAGE with the Trustee pursuant to the Bond Ordinance; which shall be used solely and only as a sinking fund for the payment of principal on the Revenue Bonds; and out of which funds will be transferred to the Bond Payment Account as provided in the Bond Ordinance. Whensoever the balance then on hand in the Sinking Fund Account (together with the balances then on hand in the Bond Payment Account, Bond Reserve Account and Principal Reserve Account) shall be sufficient to pay the principal of all then outstanding Revenue Bonds and the interest thereon to accrue to maturity or redemption, such balance shall be transferred to the Bond Payment Account. As of the last day of the nineteenth (19th) Fiscal Year, the balance then on hand in the Sinking Fund Account, if any, shall be transferred to the Bond Payment Account.

w. "Sinking Fund Payment": the amount required to be paid into the Sinking Fund Account for a particular Fiscal Year as specified in the Bond Ordinance reduced by the amount in the Sinking Fund Account at the end of the prior Fiscal Year in excess of the sum of the Sinking Fund Payments for all prior Fiscal Years.

x. "System": the existing sewer collection and transmission lines of VILLAGE; the existing primary sewage treatment plant and pumping station of VILLAGE; the Extensions; and all other property and facilities of VILLAGE used for the collection, transmission and treatment of effluent; all as now existing and as they may hereafter be extended or improved; and also all extensions, additions and improvements thereto or replacements thereof hereafter constructed or acquired by purchase, contract or otherwise; all whether the same are located within or without the corporate boundaries of VILLAGE.

y. "Trustee": a bank or trust company designated in the Bond Ordinance and its successors; provided however, that such bank or trust company and any successor shall be a member of the Federal Reserve System or the Federal Deposit Insurance Corporation or both.

z. "User": any person, firm or corporation who uses the System or any part thereof; provided, however, that "User" shall not include any person on account of its ownership or use of property only for residential purposes (including residential apartments) and shall not include VILLAGE on account of its ownership or use of the Village Hall or any other public facility.

aa. "VILLAGE": the VILLAGE OF SAUGET, an Illinois municipal corporation, and its successors and assigns.

Section 2. Project Cost. The estimated cost of designing and constructing the Extensions and issuing the General Obligation Bonds and the Revenue Bonds and of establishing the Capitalized Bond Interest Reserve Account, to be funded by the issuance and sale of such bonds, is EIGHT MILLION SIX HUNDRED SEVENTY THOUSAND DOLLARS (\$8,670,000.00).

Section 3. Funds to Pay Project Cost. The VILLAGE does not have sufficient funds to pay such project cost, or any part thereof, and, in order to obtain the necessary funds, the VILLAGE will issue and attempt to sell:

(i) EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.00) of its General Obligation Bonds; and

(ii) SEVEN MILLION EIGHT HUNDRED SEVENTY THOUSAND DOLLARS (\$7,870,000.00) of its Revenue Bonds.

Section 4. General Obligation Bonds. VILLAGE agrees that, so far as possible, the terms and conditions of the General Obligation Bonds shall be as provided in this Section 4; provided, however, that the exact terms and conditions for such bonds shall be specified by an ordinance of VILLAGE.

a. Said bonds shall bear interest at a rate of not to exceed seven percent (7%) per annum, the actual rate to be determined at the time of the Village's sale thereof.

b. Said bonds shall be dated December 15, 1973.

c. The interest on said bonds shall be paid semiannually on June 15 and December 15 of each year, commencing December 15, 1974.

d. The principal of said bonds shall be paid annually on December 15 of each of the twenty (20) years of 1974 to and including 1993.

e. The amount of principal of said bonds to be paid on each December 15 shall be so determined that the total of the amount of such principal and the interest to be paid on that December 15 plus the interest to be paid on the preceding June 15 shall be substantially the same for each of such periods during the term of the General Obligation Bonds and that the annual tax levies therefor, except for the tax years of 1973 and 1992, are substantially the same.

f. The tax levy for the tax year of 1973 will include a sufficient amount to pay the interest due on said Bonds for the eighteen (18) month period of December 16, 1973 to and including June 15, 1975; plus a sufficient amount to pay the principal due on said Bonds on December 15, 1974.

g. The tax levy for each subsequent tax year (except 1992) will include a sufficient amount to pay the interest due on said bonds for each twelve (12) month period of June 16 of each year to and including June 15 of the succeeding year, commencing with the twelve (12) month period which will begin on June 16, 1975 and will terminate on June 15, 1976; plus a sufficient amount to pay the principal due on said Bonds on December 15 of each year, commencing December 15, 1975.

h. The tax levy for the tax year of 1992 will include a sufficient amount to pay the interest due on said Bonds from June 16, 1993 to and including December 15, 1993; plus a sufficient amount to pay the principal due on said Bonds on December 15, 1993.

i. VILLAGE shall sell said Bonds at not less than par plus accrued interest from the date of said Bonds to the date of delivery.

Each of the CORPORATIONS hereby acknowledges that its taxable property now and hereafter located in VILLAGE, together with all taxable property of all other taxpayers now and hereafter located in VILLAGE, will be subject to an annual levy of taxes by VILLAGE for the purpose of paying the principal of and interest on said Bonds.

Section 5. Revenue Bonds. VILLAGE agrees that, so far as possible, the terms and conditions of the Revenue Bonds shall be as provided in this Section 5; provided, however, that the exact terms and conditions of such Bonds shall be specified in the Bond Ordinance.

a. Said Bonds shall bear interest at a rate of not to exceed seven percent (7%) per annum, the actual rate to be determined at the time of VILLAGE's sale thereof.

b. The interest on said Bonds shall be paid semiannually, commencing six months after the date of said Bonds.

c. The principal of said Bonds shall mature in not more than twenty (20) years.

d. The amount of principal on said Bonds to be paid in each Fiscal Year shall be determined so as to obtain the lowest possible cost on the Revenue Bonds. In all events, the amount of Annual Debt Service plus the amount due the Sinking Fund Account, if any, shall be substantially the same in each Fiscal Year.

e. Such of the Revenue Bonds which are due in or after the fifteenth (15th) Fiscal Year shall be subject to redemption prior to their maturity dates in the inverse order of their maturity dates.

f. The Revenue Bonds shall be payable solely and only out of the revenue derived by VILLAGE from the System, except as otherwise provided herein, and such revenue shall be pledged for such purpose.

Section 6. Funds to Pay Annual Debt Service, etc. VILLAGE shall adopt the Rate Ordinance and thereafter keep and maintain it in full force and effect so long as any of said Revenue Bonds is outstanding.

a. The Rate Ordinance shall provide, in part, for determining that portion of the charge to be paid by each User to enable VILLAGE to fund the Bond Payment Account, the Bond Reserve Account, the Depreciation Account and the Sinking Fund Account. This determination shall be made by taking the total of the following factors multiplied by the Bond Payment, Bond Reserve Payment, Depreciation Payment or Sinking Fund Payment, as the case may be:

(1) Such User's flow-related effluent divided by all Users' flow-related effluent multiplied by 57.44%; plus

(2) Such User's acidity-related effluent divided by all Users' acidity-related effluent multiplied by 7.61%; plus

(3) Such User's scum-related effluent divided by all Users' scum-related effluent multiplied by 3.15%; plus

(4) Such User's sludge-related effluent divided by all Users' sludge-related effluent multiplied by 12.32%; and plus

(5) Such User's first flush capacity divided by all Users' first flush capacity multiplied by 19.48%.

b. The terms "flow-related", "acidity-related", "scum-related", "sludge-related" and "first flush capacity" shall have the same definitions as are contained in the Report.

c. ASSOCIATION will advise and assist VILLAGE in making such determination. VILLAGE, upon the recommendation of ASSOCIATION, may also retain an Independent Engineer to advise both VILLAGE and ASSOCIATION in such respect.

d. In making such determination for the first three (3) Fiscal Years, ASSOCIATION and VILLAGE shall rely upon the estimates of usage contained in Table 4A of the Report. In making such determination for each subsequent Fiscal Year, ASSOCIATION and VILLAGE shall rely upon the actual use of System by such User as measured by the ASSOCIATION or the Independent Engineer during the preceding Fiscal Year (or portion thereof in which the Extensions are in operation); provided, however, that, notwithstanding its actual use in any Fiscal Year, the minimum estimated or actual use by each of the CORPORATIONS during each Fiscal Year (including the first 3 Fiscal Years) shall be determined pursuant to Section 7 hereof.

Section 7. CORPORATIONS' Minimum Charges. a. Notwithstanding its actual use of the System, each of the CORPORATIONS shall be deemed to have used the System, at a minimum, so that its annual minimum charge attributable to each of Bond Payment, Bond Reserve Payment and Sinking Fund Payment payable to the VILLAGE shall be the following percentage (set opposite its name) multiplied by Bond Payment, Bond Reserve Payment or Sinking Fund Payment, as the case may be:

KONSANTO COMPANY	75.7180%
EDWIN COOPER, INC.	7.9306%
AMAX ZINC COMPANY, INC.	3.6727%
CENRO CORPORATION	12.6787%

b. In the event a CORPORATION's actual use results in charges greater than the minimum charges specified above, its actual use shall be used to determine the charges to be paid by that CORPORATION.

c. The minimum charges specified above cover the capacity that each of the CORPORATIONS has determined that it may require and that is specified in the Report. By agreeing to pay such minimum charges, each CORPORATION is paying the cost of, and reserving to itself, such capacity. In consideration of such agreement, the VILLAGE and the ASSOCIATION agree to make available to each of the CORPORATIONS capacity to that extent. No User shall be permitted to use any of the capacity set aside for any of the CORPORATIONS without its consent.

d. Should any of the CORPORATIONS fail to pay its charges as determined by VILLAGE pursuant to Sections 6 and 7 hereof, each of the remaining CORPORATIONS agrees to proportionately assume such charges (excluding any interest on the defaulted payment and any accelerated payment and any penalty) and to pay the same in the same proportion as the percentage specified in this Section 7 for such non-defaulting CORPORATIONS bears to the total of the percentages of all non-defaulting CORPORATIONS.

e. Should such defaulting CORPORATION have failed to pay its charges as of the end of a Fiscal Year, the percentage specified above as the use of the remaining non-defaulting CORPORATIONS shall be recalculated so that thereafter the percentage of the defaulting CORPORATION shall be proportionately distributed between or among the remaining non-defaulting CORPORATIONS on the basis of the percentages specified in this Section 7.

f. Each of the CORPORATIONS agrees unconditionally to pay its charges as specified in this Section 7 whether or not it continues to be a User and irrespective of any claim or charge it may have against the VILLAGE, the ASSOCIATION or any of the other CORPORATIONS.

g. VILLAGE, for the use and benefit of the CORPORATIONS which assume and pay the share of a defaulting CORPORATION, shall take any and all reasonable and necessary action to collect such defaulted payment and interest from such defaulting CORPORATION and, in such event, the non-defaulting CORPORATIONS, in the same proportions as they assumed and paid the defaulted payment, shall pay all reasonable and necessary attorneys' fees and other expenses incurred by the VILLAGE in collecting or attempting to collect such defaulted payment.

h. In the event any CORPORATION fails to make a payment due from it under the provisions of this Agreement, such CORPORATION shall also be liable for reasonable attorneys' fees and other expenses incurred by the VILLAGE in collecting or attempting to collect such defaulted payment and for interest on such defaulted payment as provided in the Rate Ordinance.

Section 8. Additional Users. The Extensions have been designed, and will be constructed, to accommodate 145% of the estimated flow-related need of each CORPORATION as of December 31, 1974 and other regulated uses of the CORPORATION as specified in the Report; for all of which each of the CORPORATIONS has agreed to have its charges determined pursuant to Sections 6 and 7.

a. In addition to such additional flow-related capacity of the Extensions designed for each CORPORATION, the Extensions have

been designed for a reserve capacity of an additional 10% of estimated flow-related usage. VILLAGE is to finance the cost of design and construction of such 10% reserve capacity from and out of the proceeds of sale of the General Obligation Bonds.

b. To the extent of such 10% flow-related reserve capacity, VILLAGE may allow any present or future User to use the System upon such terms and conditions as seem fit and proper to the governing body of VILLAGE; provided that any User must pay a connection fee to be determined by VILLAGE, with the advice of ASSOCIATION, based on the capital expenditure for the Extensions required to provide the capacity to treat the anticipated use of such User; and provided further that VILLAGE shall offer each of the CORPORATIONS the right to take such capacity on the same basis prior to allowing such User to connect. In the event two or more of the CORPORATIONS desire to acquire all or part of such capacity, the same shall be allocated to each of them in accordance with their respective proportions specified in Section 7 unless they otherwise agree. Failure by any of the CORPORATIONS to accept such offer within thirty (30) days after the giving of notice in writing by VILLAGE to the CORPORATION shall preclude its right to such capacity.

c. Any connection charges paid by any such User shall be deposited to the fund then maintained by VILLAGE for the payment and retirement of the principal and interest of the General Obligation Bonds and VILLAGE shall use said connection payments for the purpose of retiring such principal and interest and shall, to the extent of such payments, reduce its annual tax levies which would otherwise be made for such purposes.

Section 9. Grants. In the event VILLAGE receives any governmental grant relating to the Extensions, VILLAGE shall use the funds of such grant as follows:

First: to the extent VILLAGE has not been previously reimbursed, to reimburse itself for any cost of design or construction of the Extensions or the issuance of the bonds which cost then has been paid by VILLAGE out of the funds other than the funds derived from the sale of the bonds described herein or income or other earnings thereon; and

Second: any balance then remaining shall be deposited in a special account and, to the extent permitted under the terms of the grant, used to reduce Bond Payments; the remainder, if any, to be used as agreed upon by the ASSOCIATION and the VILLAGE.

Section 10. Extraordinary Use. Any User, who requires additional, extraordinary, different or special waste treatment or additional, extraordinary, different or special disposal service other than those contemplated by the Report or who requires any further expansion, extension, modification or improvement of the System to accommodate such treatment or service, will be required by the VILLAGE to pay all added costs incident to the construction of such expansion, extension, modification or improvement and incident to the issuance and payment of the principal, premium, if any, and interest on additional bonds to finance same, if any, plus all additional operating expenses incurred and charged by VILLAGE for such additional, extraordinary, different or special treatment or service.

Section 11. Cost of Operations and Maintenance. In order to obtain sufficient funds to pay the cost of operating and

maintaining the System (as defined in the Rate Ordinance), VILLAGE shall adopt the Rate Ordinance and thereafter keep and maintain it in full force and effect during the term of this Agreement.

Section 12. Assignment. The rights of any of the CORPORATIONS under this Agreement may be assigned by such CORPORATION, in whole or in part, without the necessity of obtaining the consent of either VILLAGE or the other CORPORATIONS; subject, however, to each of the following conditions:

(i) No assignment (other than pursuant to Section 18 hereof) shall relieve such CORPORATION from primary liability for any of its obligations hereunder and, in the event of any such assignment, such CORPORATION shall continue to remain primarily liable for payment of the charges to be determined pursuant to Section 6 and 7 hereof to the same extent as though no assignment had been made, and

(ii) The assignee shall in writing assume and agree to perform the obligations of such CORPORATION hereunder to the extent of the interest assigned such CORPORATION, and

(iii) Such CORPORATION shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to VILLAGE, ASSOCIATION and to the other CORPORATIONS a true, correct and complete copy duplicate ¹original or certified copy of each such assignment.

Section 13. Term of Agreement. This Agreement shall be and remain in full force and effect until terminated as hereinafter provided. If and when all of the Revenue Bonds have been fully paid or provision has been made for their payment, any of

the CORPORATIONS may terminate this Agreement as it pertains to such CORPORATION by giving at least sixty (60) days advance written notice to all other parties. Termination of this Agreement by any CORPORATION shall not terminate this Agreement as to any other party.

Section 14. Operation of the System.

a. Prior to and after completion of the Extensions and throughout the term of this Agreement and in accordance with its terms and provisions and the terms and provisions of the Agreement dated January 19, 1966 between VILLAGE and ASSOCIATION, as supplemented on December 6, 1966, ASSOCIATION will operate and maintain the System (except the existing sewer collection and transmission lines which shall be maintained by the VILLAGE) in good and efficient order and will, within the limits of design and capacity reserved by each CORPORATION as specified in Sections 7c and 8, take and accept for treatment and disposal any and all effluent tendered or delivered by the CORPORATIONS, or any of them, to said System to the end that, following such treatment, all discharges of effluent from said System into the public waters or elsewhere shall be of a quality equal to, or better than, the minimum existing standards (including such variances as may have been granted) established or required by any and all pertinent laws, rules or regulations of any governmental department or agency having lawful jurisdiction thereof.

b. If the treatment of such effluent shall not meet the lawful standards which may have been or may be established or promulgated by any proper regulatory agencies having lawful jurisdiction thereof and, as a result, additional treatment will be

required to achieve such standards, the parties hereto agree to cause plans and specifications to be prepared by an Independent Engineer for the alteration, improvement, extension or expansion of the System to enable the effluent to be treated in the manner required by such standards; the cost thereof to be equitably apportioned to the User or Users whose effluent requires such additional treatment.

Section 15. Books and Records. VILLAGE agrees that it will keep and maintain, throughout the term of this Agreement, any and all records which may be necessary or requisite to record all payments made to it by the Users. ASSOCIATION will keep and maintain the records to establish the quality and quantity of the sanitary or industrial waste of each User treated by VILLAGE and to comply with all provisions of this Agreement. Each of the CORPORATIONS shall have the right at any reasonable time to inspect such records, the System and the operations thereof to insure conformity to the terms of this Agreement.

Section 16. Pledge of Security. It is understood by the parties hereto that the Revenue Bonds and the coupons attached thereto will be secured by a pledge and assignment to the Trustee or to the holders, from time to time, of the Revenue Bonds, or to both the Trustee and such holders, of the VILLAGE'S rights under this Agreement and of the revenues to be derived by VILLAGE pursuant to the Rate Ordinance and this Agreement. CORPORATIONS hereby acknowledge that such pledge and assignment for such purposes shall be made by VILLAGE.

Section 17. Insurance. The VILLAGE hereby covenants and agrees that, so long as the Revenue Bonds or any of them remain

outstanding and unpaid, either as to principal or interest, it will carry insurance on the **System** of the kinds and in the amounts which are usually carried by operators of similar properties including, without limiting the generality of the foregoing, fire, windstorm insurance, public liability and all additional insurance covering such risks as shall be recommended by a competent consulting engineer employed for the purpose of making such recommendations. All moneys received for losses under such insurance policies shall be used in making good the loss or damage in respect of which they were paid either by repairing the property damaged or by replacing the property destroyed, and provision for making good such loss or damage shall be made within ninety (90) days from date of the loss. The payment of premiums for all insurance policies required under the provisions of this Section 17 shall be considered a maintenance and operation expense.

Section 18. CORPORATIONS to Maintain Corporate Existence, etc.: Conditions Under which Exceptions Permitted. Each of the CORPORATIONS agrees that, so long as this Agreement is still in effect as to such CORPORATION, it:

(i) will be subject to suit in personam upon this Agreement in the Circuit Court of St. Clair County, Illinois, and will be subject to service of process of summons in any such suit upon its Illinois registered agent, if any, or at its address specified in Section 28; and

(ii) will not liquidate, dissolve, consolidate, merge or dispose of all or substantially all of its assets unless the CORPORATION is the surviving corporation or unless the surviving

or resulting corporation or transferee, as the case may be, in writing assumes and agrees to perform all of the duties and obligations of such CORPORATION under this Agreement.

Section 19. Events of Default. The following shall be "events of default" under this Agreement and the terms "event of default" or "default" shall mean, whenever it is used in this Agreement, any one or more of the following events:

(i) Failure by any of the CORPORATIONS to pay any of its charges to VILLAGE as determined by Sections 6, 7, and 11 hereof and by the Rate Ordinance; provided, however, that no default shall be deemed to have occurred if, within seven (7) days, all of the non-defaulting CORPORATIONS shall so declare in writing to the Trustee and the VILLAGE and all such charges shall have been paid; provided further no such declaration shall be deemed to constitute a waiver of any subsequent failure to pay.

(ii) Failure by any of the CORPORATIONS to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (i) of this Section, for a period of thirty (30) calendar days after written notice (specifying such failure and requesting that it be remedied) is given to the CORPORATION by VILLAGE or the Trustee, unless VILLAGE and the Trustee shall agree in writing to an extension of such time prior to its expiration.

(iii) A breach of the provisions of paragraph (ii) of Section 18; or the filing by any of the CORPORATIONS of a voluntary petition in bankruptcy; or the filing of any involuntary petition in bankruptcy against the CORPORATION which is not removed or dismissed

within 120 days; or the failure by any of the CORPORATIONS promptly to lift any execution, garnishment or attachment of such consequence as will impair its ability to carry on its obligations under this agreement; or the commission by any of the CORPORATIONS of any act of bankruptcy; or the adjudication of any of the CORPORATIONS as a bankrupt; or assignment by any of the CORPORATIONS for the benefit of its creditors; or the entry by any of the CORPORATIONS into an agreement of composition with its creditors; or the approval by a court of competent jurisdiction of a petition applicable to any of the CORPORATIONS in any proceeding for its reorganization instituted under the provisions of the general bankruptcy act, as amended, or under any similar act which may hereafter be enacted.¹

a. The provisions of paragraph (ii) above are subject to the following limitations:

(1) If by reason of force majeure such CORPORATION is unable, in whole or in part, to carry out its agreements on its part herein contained, such CORPORATION shall not be deemed in default during the continuance of such inability.

(2) The term "force majeure" as used herein shall mean, without limitation, the following: Acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of Illinois or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricane; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities;

or any other cause or event not reasonably within the control of such party. Such party agrees, however, to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of such party and it shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of such party, unfavorable to it.

b. A default by VILLAGE or ASSOCIATION shall not be deemed to have occurred if either (or both of them) is prevented by "force majeure" from fulfilling any of its duties or obligations hereunder.

Section 20. Remedies on CORPORATION'S Default. Whenever any event of default referred to in Section 19 hereof shall have occurred and be continuing, VILLAGE may take any one or more of the following remedial steps:

(i) VILLAGE may, at its option, declare all minimum charges to be paid by such defaulting CORPORATION throughout the remainder of the term of this Agreement (as determined under the provisions of Section 7 hereof) to be immediately due and payable, whereupon the same (or so much thereof as may be permitted by law) shall become immediately due and payable. For the purposes of this Section 20, such CORPORATION'S minimum charges as accelerated shall be its percentage (as determined under the provisions of paragraphs a and e of Section 7) of the then outstanding principal of the Revenue Bonds (after taking into consideration its said percentage of any balances then in the Bond Reserve Account, the Principal

Reserve Account and the Sinking Fund Account) and interest accrued to the date of default. Such CORPORATION agrees to pay such minimum charges to the VILLAGE as **damages**, fixed, liquidated and agreed upon in advance, resulting from **such** CORPORATION'S default, actual damages being difficult, if not impossible, to ascertain precisely.

(ii) VILLAGE may take whatever action, at law or in equity, that may appear necessary or desirable to collect its charges under the Rate Ordinance and as determined by Sections 5 and 7 hereof, then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of any such CORPORATION under this Agreement.

Any amounts collected pursuant to action taken under this Section shall be paid into the Bond Payment Account.

VILLAGE agrees to take such actions as may be required to effect any or all of the above remedies upon the written demand of any one or more of such CORPORATIONS as shall not then be in default hereunder.

Section 21. Agreement to Pay Attorneys' Fees and Expenses. In the event any CORPORATION should default under any of the provisions of this Agreement and VILLAGE should employ attorneys or incur other expenses for the collection of charges to be paid by such CORPORATION or the enforcement of performance or observance of any obligation or agreement on the part of such CORPORATION herein contained, such CORPORATION agrees that it will, on demand, pay to VILLAGE the reasonable fee of such attorneys and such other expenses so incurred by VILLAGE. To the extent such

defaulting CORPORATION fails to pay such expenses, the non-defaulting CORPORATIONS shall pay VILLAGE such fees and expenses in the same proportions as specified in Section 7 hereof.

Section 22. Project Costs. The Schedule of Project Costs (which is attached hereto as Exhibit C and, by this reference, incorporated herein and made a part hereof) sets forth the purposes for which the proceeds of sale of the bonds are to be used.

a. VILLAGE shall invest and reinvest such of the Construction Fund which is not immediately necessary to pay Project Costs and will add any and all income and other earnings to the Construction Fund.

b. In the event VILLAGE receives any premium or accrued interest at the time of its sale of the General Obligation Bonds, it will add the same to the account maintained by it for the payment of principal and interest on said General Obligation Bonds.

c. In the event VILLAGE receives any premium or accrued interest at the time of its sale of the Revenue Bonds, it will add the same to the Bond Payment Account.

d. Except as provided in sub-paragraph e of this Section 22, VILLAGE shall not use the Construction Fund or any income or other earnings thereon for any purpose other than that specified in the Schedule of Project Costs and VILLAGE, without the consent of the ASSOCIATION, will not transfer any amount from any item on such Schedule to any other item; provided, however, that the funds in the Contingencies item may be transferred from such item to any other item without consent of ASSOCIATION.

e. If, at the time that the Extensions are completed (as certified by an Independent Engineer) and all expenses incurred in

connection with the Project have been paid or reimbursed, any balance remains in the Construction Fund, VILLAGE shall transfer such balance as follows:

1. 80/867 of the first \$787,000.00 of such balance shall be transferred to the account maintained by the VILLAGE for the payment of principal and interest on the General Obligation Bonds and 787/867 of the first \$787,000.00 of such balance shall be transferred to the Bond Payment Account; and

2. 80/867 of the amount of such balance in excess of \$787,000.00 shall be transferred to the account maintained by the VILLAGE for the payment of principal and interest on the General Obligation Bonds and 787/867 of the amount of such balance in excess of \$787,000.00 shall be transferred to the Principal Reserve Account.

f. No party makes any warranty to any other party that the proceeds of sale of the bonds and any income or other earnings thereon will be sufficient to pay all of the Project Costs.

g. In the event that the proceeds of sale of the Bonds and any income earned thereon are not sufficient to pay all of the Project Costs, then and in that event CORPORATIONS shall, in the proportions specified in Section 7, pay the excess cost of completing the Project within sixty (60) days after notice by VILLAGE that such amount is due.

Section 23. Investments. The Trustee and the VILLAGE shall keep all balances on hand in all Funds and Accounts invested from time to time as their needs for funds will allow.

a. All income and other earnings derived from the investment of funds in the Construction Fund Account shall be added to such account.

b. All income and other earnings derived from the investment of funds in the Principal Reserve Account shall be added to such Account.

c. All income and other earnings derived from the investment of funds in all other Funds and Accounts shall be added to the Bond Payment Account.

Section 24. Deposits of Collections from Users. The VILLAGE shall deposit all collections from all Users and the Corporations as follows:

(i) So much of each collection attributable to Bond Payment shall be deposited to the Bond Payment Account;

(ii) So much of each collection attributable to Bond Reserve Payment, if any, shall be deposited to the Bond Reserve Account;

(iii) So much of each collection attributable to Depreciation Payment, if any, shall be deposited to the Depreciation Account;

(iv) So much of each collection attributable to Cost of Operations and Maintenance shall be deposited to the Operations and Maintenance Account (as such terms are defined in the Rate Ordinance); and

(v) So much of each collection attributable to Sinking Fund Payment, if any, shall be deposited to the Sinking Fund Account.

PROVIDED, HOWEVER, that in the event that the Trustee or the VILLAGE receives any funds from or on behalf of a defaulting CORPORATION, the provisions of Section 20 or from the surety of

any defaulting CORPORATION, such funds shall be deposited in a special account and shall be used from time to time to pay the portion of Bond Payment attributable to principal (or to interest to the extent that such funds received constitute a payment of interest) which such CORPORATION would make if it were not in default.

Section 25. Bond Redemption. At such time as the Revenue Bonds shall be redeemable at the option of VILLAGE, VILLAGE will, at the request of all of the CORPORATIONS which shall not at that time be in default under this Agreement, call the Revenue Bonds for redemption and such CORPORATIONS shall pay moneys sufficient to redeem the principal amount of such Bonds with interest accrued to the redemption date. Except as hereinbefore provided, VILLAGE agrees that it will not call any of the Revenue Bonds without the prior written consent of each of the CORPORATIONS.

Section 26. Disposition of Funds Upon Payment of Revenue Bonds. If, at the time all of the Revenue Bonds have been fully paid or provision for their payment has been made, any balance remains in the Bond Payment Account, Bond Reserve Account, Capitalized Bond Interest Reserve Account, Principal Reserve Account or Sinking Fund Account, such balance shall be transferred to the Operations and Maintenance Account.

Section 27. Interim Financing of Construction and Effect of Failure to Sell Bonds.

1. The VILLAGE shall, on or before December 31, 1973, enter into the construction contract with KEELEY BROS. CONTRACTING CO., INC. for the construction of the chemical treatment plant pursuant to its proposal ("bid") submitted to the VILLAGE on October 2, 1973, subject, however, to such changes and deductions

as may be mutually agreed upon by the VILLAGE, said KEELEY BROS. and the ASSOCIATION.

b. Contemporaneously therewith the VILLAGE shall assign all of its rights, powers and duties under such construction contract to the ASSOCIATION and the ASSOCIATION shall assume and agree to perform all of the VILLAGE'S duties and responsibilities under such construction contract.

c. If and when the General Obligation Bonds are sold and delivered, the proceeds of sale thereof (less accrued interest, any and all expenses of sale and any reimbursement due the VILLAGE) shall be deposited in the Construction Fund and such net proceeds of sale (or parts hereof) shall thereafter from time to time be transferred by the VILLAGE from such Fund to the ASSOCIATION to enable it to make payments to said KEELEY BROS. under such construction contract.

d. If and when the Revenue Bonds are sold and delivered the proceeds of sale thereof (less accrued interest, any and all expenses of sale, any reimbursement due the VILLAGE and the \$670,000 to be deposited in the Capitalized Bond Interest Reserve Account) shall be deposited in the Construction Fund and such net proceeds of sale (or parts thereof) shall thereafter from time to time be used by the VILLAGE to enable it to make payments to said KEELEY BROS. under such construction contract and, in addition, the ASSOCIATION shall reassign all of its rights, powers and duties under such construction contract to the VILLAGE and the VILLAGE shall assume and agree to perform all of the ASSOCIATION'S duties and responsibilities under such construction contract.

e. Unless and until both the General Obligation Bonds and the Revenue Bonds are sold and delivered, the CORPORATIONS,

in the proportions specified in paragraph a of Section 7, shall monthly pay the ASSOCIATION such sums as may be necessary to enable it to make payments to said KEELEY BROS. under such construction contract, after taking into consideration any balance then on hand in the Construction Fund. The obligations of the Corporations under this paragraph e shall be several.

f. If and when the Revenue Bonds are sold and delivered, the VILLAGE, out of the Construction Fund, shall reimburse the CORPORATIONS for any and all sums advanced by them under the provisions of paragraph e of this Section 27.

g. Such construction contract shall contain a provision which would allow the VILLAGE, at its option, to cancel and terminate the same if all of the General Obligation Bonds and the Revenue Bonds are not sold and delivered on or before June 30, 1974 and which would also require the VILLAGE, if it exercises such option, to pay said KEELEY BROS. for all labor and material expended to such date plus its reasonable damages for such cancellation and termination. Such option shall be assigned to the ASSOCIATION as part of the construction contract as specified in paragraph b of this Section 27.

h. If all of the General Obligation Bonds and the Revenue Bonds are not sold and delivered on or before June 30, 1974, the CORPORATIONS, in the proportions specified in paragraph a of Section 7 and to the extent the same have not theretofore been paid out of the Construction Fund, shall pay to the VILLAGE and the ASSOCIATION the following:

(1) the cost of printing or otherwise reproducing this Agreement, the Rate Ordinance, the Bond Ordinance, the ordinance or ordinance issuing the General Obligation

Bonds, the Bonds, the General Obligation Bonds, the Official Statement (Prospectus) and any other related document;

(2) the reasonable fees, disbursements and expenses of counsel for the VILLAGE, counsel for the ASSOCIATION and bond counsel; and

(3) all reasonable out-of-pocket expenses incurred by the VILLAGE in connection with the Project.

i. If the option provided for in paragraph g of this Section 27 is exercised, this Agreement shall thereupon terminate except as to any duties or obligations of the CORPORATIONS specified in this Section 27.

j. If all of the General Obligation Bonds and the Revenue Bonds are not sold on or before June 30, 1974 and if neither the VILLAGE nor the ASSOCIATION has exercised the option provided for in paragraph g of this Section 27, any CORPORATION may terminate this Agreement as it applies to such CORPORATION as of a date on or before August 31, 1974 by giving at least thirty (30) days advance written notice of such termination to the VILLAGE and the other CORPORATIONS; provided, however, that such termination shall not terminate any of the duties and obligations of such CORPORATION which have arisen under the provisions of this Section 27 prior to such termination date.

Section 28. Additional Bonds. Additional bonds on a parity with the Revenue Bonds may be issued to complete, alter, improve or extend the System. VILLAGE agrees that it will not issue such additional parity bonds without the prior consent of

all of the CORPORATIONS who are at that time not in default under this Agreement and unless this Agreement is amended so as to include such additional bonds within the meaning of Revenue Bonds for purposes of determining the amount due from the non-defaulting CORPORATIONS under the provisions of Sections 6 and 7.

a. After the Revenue Bonds have been fully paid or provision has been made for their payment, the VILLAGE may issue revenue bonds for the purpose of altering, improving or extending the System.

b. The VILLAGE may, at any time, issue additional general obligation bonds for any of such purposes or otherwise.

Section 29. Notices. All notices or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the VILLAGE, at: The Village Hall, 2897 Monsanto Avenue, Sauget, Illinois 62206; if to MONSANTO COMPANY, at: 800 North Lindbergh, St. Louis, Missouri, 63166, Attention: General Counsel; if to EDWIN COOPER, INC., at: Sauget, Illinois 62206, Attention: Plant Manager; if to AMAX ZINC COMPANY, INC., at American Metal Climax, Inc., 1270 Avenue of the Americas, New York, New York 10020; and if to CERRQ CORPORATION, at: 300 Park Avenue, New York, New York 10022, Attention: General Counsel; if to the ASSOCIATION, at: Sauget, Illinois 62201; and if to the Trustee, at the address set forth in the Bond Ordinance.

A duplicate copy of each notice or other communication given hereunder by VILLAGE, ASSOCIATION or CORPORATIONS, or any

of them, shall also be given to the Trustee. The parties to this Agreement may, by notice given hereunder, designate any further or different address to which subsequent notices or other communications shall be sent.

Section 30. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 31. Amendments, Changes and Modifications. Except as otherwise provided in this Agreement, in the Rate Ordinance or in the Bond Ordinance or except in the case of the issuance of additional bonds under the provisions of Section 28 or except in the case of a change in any percentage specified in Sections 6 or 7 (so long as such percentage thereafter totals 100%), this Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee subsequent to the initial issuance of the Revenue Bonds and prior to their payment in full or provision for the payment thereof having been made.

Section 32. Governing Law. This Agreement shall be construed exclusively under the applicable laws of the State of Illinois.

Section 33. Successors and Assigns. This Agreement shall be binding upon each of the parties, its successors and assigns.

Section 34. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument. Any such counterpart may be signed

By one or more of the parties hereto so long as each of the parties hereto has signed one or more of such counterparts.

IN WITNESS WHEREOF, the parties hereto have caused their respective corporate names to be subscribed hereto and their respective corporate seals to be hereto affixed and attested by their duly authorized officers, all on the date set opposite their respective corporate name.

VILLAGE OF SAUGET

DATE December 28, 1973

By Paul Langit
President of its Board of Trustees

[SEAL]

Attest:

By Betty J. Long
Village Clerk

MONSANTO COMPANY

DATE _____

By _____
Its _____

[SEAL]

Attest:

By _____
Its _____

EDWIN COOPER, INC.

By _____
Its _____

[SEAL]

Attest:

By _____
Its _____

AMAX ZINC COMPANY, INC.

By _____
Its _____

[SEAL]

Attest:

By _____
Its _____

CERRO CORPORATION

DATE _____

By _____
Its _____

[SEAL]

ADDRESS:

BY _____
Its _____

VILLAGE OF SAUGET SANITARY DEVELOPMENT AND RESEARCH ASSOCIATION

DATE _____

By _____
Its _____

[SEAL]

ADDRESS:

BY _____
Its _____